

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LYDIA SATTERFIELD,
an individual,

Plaintiff,

vs.

MDOW INSURANCE COMPANY,
a foreign insurance company, and
AC BRANCH HOLDINGS, LLC,
an Oklahoma Limited Liability
Company

Defendants.

CIV-15-354-R

Case No.:5:14-cv-00622-R

NOTICE OF REMOVAL

Defendant MDOW Insurance Company (“MDOW”) hereby removes to this Court the State Action, as described below, and states as follows:

I. INTRODUCTION.

1. The United States District Court for the Western District of Oklahoma is the appropriate court for filing a Notice of Removal from the state court where Plaintiff’s State Action is pending, and accordingly, Defendant seeks to remove the State Action to this Court.

2. Defendant has the right of removal pursuant to 28 U.S.C. § 1441 and this Court has jurisdiction pursuant to 28 U.S.C. § 1332, because there is complete diversity as to the parties; and the amount in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

3. On May 19, 2014, Plaintiff filed this case, styled *Satterfield v. MDOW Ins. Co., et al.* in the District Court of Cleveland County, State of Oklahoma, Case No. CJ-2014-597 ("State Action"). *See Plaintiff's Petition*, Exhibit "1".

4. In her Petition, Plaintiff named two (2) Defendants: MDOW Insurance Company and AC Branch Holdings, LLC. Defendant MDOW is a foreign insurance company with a principal place of business in Texas. Defendant AC Branch Holdings, LLC is a domestic Limited Liability Company located in Oklahoma City, Oklahoma. *See Petition*, Ex. "1."

5. On March 6, 2015, the Oklahoma District Court for Cleveland County entered an order granting Defendant AC Branch Holdings, LLC's Motion to Dismiss. *See March 6, 2015 Order*, attached as Exhibit "2."

6. To date, Plaintiff has not sought leave to amend her Petition or refile claims against AC Branch and therefore, the only parties to this case are Plaintiff and Defendant MDOW.

7. This Notice of Removal is being filed within thirty (30) days from the filing of the Order dismissing AC Branch Holdings, LLC (the non-diverse party) and is therefore timely filed pursuant to 28 U.S.C. § 1446(b)(3).

8. Pursuant to LCvR 81.2 a copy of the docket sheet from the District Court of Cleveland County, Case No. CJ-14-597, the State Action, is attached hereto as Exhibit "3".

9. Defendant has given Plaintiff and the State Court notice of this Notice of Removal as required by 28 U.S.C. § 1446 (d).

10. Removal is proper because complete diversity exists between the parties in interest that are properly joined and the amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1332 and 1441.

11. On June 16, 2014, Defendant MDOW and AC Branch filed an initial Notice of Removal [Doc. No. 1] in this case. On September 12, 2014, this Court entered an Order [Doc. No. 14] granting a Motion to Remand [Doc. No. 12] filed by Plaintiff. The case was sent back to Cleveland County District Court. Subsequent to remand, the non-diverse defendant, AC Branch, was dismissed pursuant to a Motion to Dismiss filed on behalf of AC Branch. MDOW, as the remaining Defendant in this case, respectfully submits this removal as federal diversity jurisdiction is present.

II. COMPLETE DIVERSITY EXISTS BETWEEN THE REMAINING PARTIES.

12. Plaintiff is a citizen of the State of Oklahoma. *Plaintiff's Petition*, ¶ 1, Ex. "1".

13. Defendant MDOW is incorporated under the laws of Texas with its principal place of business in Texas and is therefore, a citizen of the State of Texas for purposes of diversity jurisdiction under 28 U.S.C. § 1332. *Plaintiff's Petition*, ¶ 2, Ex. "1". Thus, there is complete diversity between Plaintiff and MDOW.

14. AC Branch is a citizen of the State of Oklahoma for purposes of diversity jurisdiction under 28 U.S.C. § 1332. However, AC Branch has been dismissed from this lawsuit by Order of the Cleveland County District Court. *See* Ex. "2."

15. Complete diversity exists as the only remaining parties in interest are residents of Oklahoma (Plaintiff) and Texas (Defendant MDOW).

III. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.

16. In order for this Court to have jurisdiction on the basis of diversity of citizenship, the amount in controversy must exceed the sum or value of \$75,000, exclusive of interests and costs. 28 U.S.C. § 1332 (a).

17. The sum demanded in good faith in the initial pleading, shall be deemed the amount in controversy. 28 U.S.C. § 1446 (c)(2).

18. Plaintiff's initial pleading in the State Action demands damages in excess of \$75,000. *Plaintiff's Petition*, p. 10, Ex. "1". Plaintiff's demand has not been amended, revised, or otherwise changed since the filing of her Petition. Therefore, the amount in controversy exceeds \$75,000 for the purposes of diversity jurisdiction.

WHEREFORE, Defendant MDOW respectfully requests that this Court assume full jurisdiction over this case pursuant to 28 U.S.C. §§ 1332 and 1441.

Respectfully submitted,

s/Kevin H. Cunningham
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**ATTORNEYS FOR DEFENDANT
MDOW INSURANCE COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of April 2015, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and also sent a copy of the document and attachments to:

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and

Mrs. Rhonda Hall- *VIA HAND DELIVERY*
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/s Kevin H. Cunningham